



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

मंगलवार, 20 जनवरी, 2015/30 पौष, 1936

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla, the 15th January, 2015

No: Sharm (A) 6-1/2014 (Awards).—In exercise of the powers vested under section 17(1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment of the Government of Himachal Pradesh:—

Sr. No.	Case No: August, 2013	Title of the Case	Date of Award
1.	64/2012	Shri Bahadur Singh V/s DFO Renuka ji & Others.	2/1/2015
2.	65/2012	Shri Dharam Singh V/s -do-	2/1/2015
3.	66/2012	Shri Daulat Singh V/s-do-	2/1/2015
4.	67/2012	Shri Giaru Ram V/S-do-	2/1/2015
5.	57/2011	Shri Amrit Singh V/S HPSEB Rohru.	3/1/2015
6.	32/2011	Shri Tek Singh V/S HPSEB Sunni Distt. Shimla.	3/1/2015
7.	97/2010	Shri Jeet Singh V/S Director of Agriculture Deptt. Shimla & Others.	6/1/2015

By order,
Sd/-

Pr. Secretary (Labour & Employment).

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

App. No. 64 of 2012.

Instituted on 15.12.2012.

Decided on. 2.1.2015.

Bahadur Singh S/o Siba Ram R/o Village Dhunkher, P.O Lodga, Tehsil Shillai, Sub Tehsil Rohnat, District Sirmour, HP. *.Petitioner.*

V/s.

1. The Divisional Forest Officer, Renukaji Forest Division, District Sirmour, HP.

2. The Forest Range Officer Shillai, Forest Range Shillai, District Sirmour, HP.

. Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947.

For petitioner: Shri R.K Khidta, Advocate.

For respondent: Shri Surender Negi, Dy. DA.

AWARD/Order

Briefly, the case of the petitioner is that he was engaged, as forest worker, by the department, in Lodga Manan beat under Shillai Range, Division Renukaji, in the month of Jan., 1999 and worked as such till the year, 2000. Thereafter, his services had been illegally terminated by the department. Consequent upon his having filed O.A. before the Administrative Tribunal, a stay was granted whereby, the department was directed to reengage him in the same post and accordingly, he was engaged and worked till September, 2011. During that period, he had worked under different beats namely Khalanda, Panog, Jakando etc. It is alleged that before, orally terminating his services w.e.f. 1.10.2011, the mandatory provisions of the Industrial Disputes Act, 1947 (hereinafter referred as Act) had not been complied with. It is further averred that the concerned forest officials had assured to reengage him, when he used to visit the office of DFO and Range Officer, from time to time. Moreover, respondent no.2 (Forest Range Officer, Shillai) was not competent to terminate his services. In each calendar year, he had been completing 240 days. Further, juniors to him namely S/Shri Ratti Ram and Rajinder Singh are still working with the respondents. Thus, his alleged termination is also in violation of the provisions of the Act as the principles of last come first go was not followed by the department. W.e.f. 1.10.2011, when his services were terminated, he has been un-employed. It is further stated that when his services were not engaged, he filed a demand notice before Labour-cum-Conciliation Officer, Nahan but despite the expiry of more than forty five days, the appropriate government had failed to make a reference to this Court. Against this back-drop a prayer has been made for his reinstatement w.e.f. 1.10.2011, along-with all consequential service benefits and also to regularize his services since he has completed the required eight years of service.

2. The petition has been contested on having raised preliminary objection qua maintainability. On merits, it has been asserted that the petitioner had been engaged as daily waged labourer for seasonal forestry works in Shillai Range of Renukaji Forest Division from 1998 but he could not complete 240 days in each calendar year. The petitioner had filed O.A No. 3595 of 2000, before the Administrative Tribunal. As per mandays chart, it is quite clear that he had attended seasonal forestry works from 1998 to 2008 but could not complete 240 days in each calendar year. The seniority list which has been given by Shri Khatri Ram, the then Range Officer, Shillai, was found not to be based on the records. Moreover, he (Forest Range Officer Shillai) was not competent to give seniority list, directly, to the petitioner. It is further averred that the petitioner used to work in a casual manner and left the work, when desired, on his own sweet will. After the year, 2008, he did not come to work. It is further specifically denied that he had approached the respondents as alleged. As far as Ratti Ram and Rajinder Singh daily wagers are concerned, they are senior to the petitioner. No junior person to the petitioner has been retained by the respondents. Other allegations denied.

3. By filing rejoinder, the petitioner has reiterated his own allegations by denying those of the respondent.

4. Pleadings of the parties gave rise to the following issues which were struck on 17.7.2013.

1. Whether the termination of the services of the petitioner w.e.f. 1.10.2011, without following the mandatory provisions of the Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative to what relief the petitioner is entitled to as alleged? . . .*OPP.*
3. Whether this petition not maintainable as alleged? . . .*OPR.*

4. Relief.

5. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under.

Issue no.1 Yes accordingly.

Issue no.2 Entitled to reinstatement with seniority and continuity but without back wages.

Issue no.3 No.

Relief. Petition allowed per operative part of award/order.

Reasons for findings

Issue no.1

7. It has been specifically alleged by the petitioner that his services had been terminated by the respondents w.e.f. 1.10.2011, in contravention of the provisions of the Act. The defence version is to this effect that, in fact, he had worked till the year 2008, without having completed 240 days in each calendar year.

8. The petitioner, when appeared in the witness box as PW-1, has supported his entire version, as stated in the petition, on all material counts, including that initially, he had worked from 1999 to 2000, when his services were terminated. He was reengaged, since on his original application, the Administrative Tribunal had stayed his termination. Thereafter, he had worked up to September, 2011, with fictional breaks in different beats. On 1.10.2011, his services had been terminated, orally, without notice and compensation. Although, he had kept on visiting the office of the respondents but he was not reinstated. Then, he served a demand notice, which is Ex. PW-1/A. Since, the reference was not made within 45 days, he filed a direct claim before this Court. Persons junior to him namely S/Shri Rajinder Ram, Bir Singh, Attar Singh, Sant Ram, Ratti Ram and Dhir Singh are still working with the department. In each calendar year, he had completed 240 days. From the time of his termination, he is un-employed. In the crossexamination, he denied that in the year, 2008, on his own, he had left the job. He also denied not to have remained in job from 1999 to 2008. He further denied not to have worked with the department for the years, 2009, 2010 and 2011. He clarified to have received wages for the years, 2009, 2010 and 2011. He denied that Ratti Ram, Bir Singh, Sant Ram etc. are senior to him. He further denied that seniority list is not correct.

9. According to Shri Mani Ram (PW-2), the petitioner had worked with the Forest Department in the years, 2009, 2010 and 2011, along-with him. In the crossexamination, he admitted that attendance of a workman is marked.

10. Shri Vinay Pal (PW-3), states from the summoned records that in the month of Feb., 2011, the petitioner had worked in Lodga nursery, for which, he had also been paid salary. Ex. PW 3/A, is the copy of the bill book. As per records, Ratti Ram had been engaged in the year, 2001, who is still working. In the cross-examination, he states that in the year, 2011, the petitioner had been working on bill basis and not on muster roll. Ratti Ram has been working on the orders of the Court.

11. According to Ran Singh (PW-4), the petitioner had worked in the years, 2009 to 2011. In the cross-examination, he denied that, at present, the work in the department is carried out on bill basis. He denied that in the year, 2008, the petitioner had left the job, on his own.

12. According to Shri Vijay Pal (RW-1), in the month of March, 1999, the petitioner had been engaged as daily wager for seasonal forestry work in Shillai Range. He (petitioner) used to work as per the availability of the work and that Ex. RW- 1/A (objected to) is his mandays chart. He had never worked for 240 days in any of the years except 2005, as per records. The seniority list issued by Khatri Ram was neither based on records nor he was authorized to issue such list. In the month of March, 2008, the petitioner had left the job, on his own. The department had never terminated his services. Workers namely Bir Singh, Ratti Ram and Sent Ram had been engaged for seasonal forestry works in the years 1986, 1999, 1998 and 1999 respectively along-with the petitioner. They are senior to the petitioner. As far as Kalyan Singh is concerned, he had never worked with the department. In the month of December, 2013, the petitioner had been reengaged and worked for five days. In the month of Jan., 2014, he had worked for eight days on bill basis. In the cross-examination, he admitted that against his termination, the petitioner had filed OA No. 771/2000 before Administrative Tribunal which had directed the respondents to reengage him in the same capacity and in the same place. Consequent upon the orders of the Administrative Tribunal, the petitioner was reengaged. He denied that the petitioner had worked till 2014 in different beats. The petitioner had neither been issued any notice nor paid compensation. He denied that the petitioner had completed more than 240 days in each calendar year and that Ex. RW-1/A is not correct as per records. Since, he has not prepared mandays chart, Ex. RW-1/A, he could not say whether it is correct or false. He admitted that Ratti Ram is still working with the department, who is junior to the petitioner. He further admitted that junior persons to the petitioner are still working with the department. He also admitted that the work, which the petitioner had been performing, is still available with the department.

13. Although, the petitioner has stated that in each calendar year, he had completed 240 days but in support of his such version, he has not produced any documentary evidence. On the contrary, the respondents have brought, on record, the mandays chart of the petitioner which is Ex. RW-1/A. Its perusal goes to show that the petitioner had not completed 240 days in any of the calendar year from 1999 to 2008. It is true that as per the respondents, the petitioner had worked till March, 2008 but the petitioner has led evidence that he had also worked for the years 2009, 2010 and 2011. From the statement of RW-1 (Vijay Pal), it is further borne out that during the pendency of this petition, the petitioner had been reengaged in the month of December, 2003 and he also worked in the month of Jan., 2014. In my considered view, the petitioner has failed to prove that he has completed 240 days in a calendar year preceding his termination, in the month of September, 2011. To claim benefit under section 25-F of the Act, it was upon the petitioner to have established that prior to his termination, he had completed 240 days. It has been held in **2009 (120) FLR 1007 an Civil Appeal no. 4468 of 2005 of Hon'ble Supreme Court incase titled as Relip Nagarpalika Vs. Babuji Gabhaji Thakore and others** that:

"The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer."

Since, the petitioner has failed to prove that he had worked continuously for 240 days in the preceding one year from the date of his termination, his alleged termination cannot be said to be in contravention of the provisions of section 25-F of the Act.

14. Here, it is further to be noted that the petitioner has also challenged his termination to be illegal and unjustified on the ground that his juniors have been kept in service. From the evidence, on record, he has proved that Ratti Ram is junior to him. In this way, his termination

w.e.f. 1.10.2011, can be said to be in violation of the provisions of section 25-G and 25-H of the Act. It has been held by our own Hon'ble High Court, incase titled as ***State of HP & Others V/s Bhatag Ram & Anr. as reported in latest HLJ 2007 (HP) 903.*** that :—

“Continuing of 240 days is not necessary in 12 calendar months. It is not necessary to workman to complete 240 days during 12 months for taking the benefits of section 25-G & 25-H of the Act.”

15. For my above discussion and law laid down by the Hon'ble High Court (supra), I have no hesitation in holding that the services of the petitioner had been terminated/disengaged, illegally and in an unjustified manner and that too without complying with the provisions of the Act. Accordingly, my answer to this issue is in “Yes”.

Issue No. 2

16. The contention of the petitioner is to this effect that he is unemployed from the date, when his services were terminated. I may mention that from the evidence, on record, as referred to above, it is abundantly clear that even after his termination w.e.f. 1.10.2011, he had been doing the work. Ld. Counsel for the petitioner has relied upon **2014 LLR 1075, Raghubir Singh Vs. General Manager, Haryana Roadways Hissar**, in support of his contention that the petitioner is entitled to be reinstated with full back wages. I may mention that this ruling is not applicable to the facts of the present case because in the said case, the services of the employee had been terminated without conducting enquiry but in the instant case, it is not the claim of the petitioner that his services had been terminated without conducting enquiry. Here, I may point-out that *the Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla* has ruled that ***“full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry”.***

17. The petitioner has also claimed regularization in service. His such claim cannot be taken by this Court because as far as the regularization is concerned, it is to be ordered by the department concerned as per the Policy of the State Government regarding regularization of daily wagers.

18. Consequently, for what has been stated and observed above, the petitioner is held entitled to be reinstated in service with seniority and continuity but without back wages. Thus, my answer to this issue is in “Yes”.

Issue no. 3

19. An objection has been taken by the respondents that this petition is not maintainable because it was filed after three years from the date when the petitioner had left the job. I may mention that Limitation Act is not applicable to the proceedings under the Act. Further, on record, the petitioner has proved that his junior Ratti Ram is still working with the respondents and for this reason, his alleged termination is in violation of the provisions of the Act. Thus, when the petitioner has proved his termination w.e.f. 1.10.2011, to be in violation of the provisions of the Act, I hold that his petition, filed directly before this Court, is maintainable. By holding it to be maintainable, my answer to this issue is in “no”.

Relief.

As a sequel to my discussion/findings on the aforesaid issues, the claim of the petitioner is partly allowed and as such the respondents are directed to reinstate him with seniority and continuity but without back wages. Let a copy of this award/order be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 2nd Jan., 2015.

(A.S JASWAL)
*Presiding Judge,
 Industrial Tribunal-cum-
 Labour Court, Shimla.*

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
 TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

App. No. 65 of 2012.

Instituted on 15.12.2012.

Decided on. 2.1.2015.

Dharam Singh S/o Shri Surat Singh R/o Village Kinu, P.O Panog , Tehsil Shillai, Sub
 Tehsil Rohnat, District Sirmour, HP. *. Petitioner.*

VS.

3. The Divisional Forest Officer, Renukaji Forest Division, District Sirmour, HP.
4. The Forest Range Officer Shillai, Forest Range Shillai, District Sirmour, HP.
. Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947.

For petitioner: Shri R.K Khidta, Advocate.

For respondent: Shri Surender Negi, Dy. DA.

AWARD/Order

Briefly, the case of the petitioner is that he was engaged, as forest worker, by the department, in Panog beat under Shillai Range, Division Renukaji, in the year, 1999 and worked as such till the year, 2000. Thereafter, his services had been illegally terminated by the department. Consequent upon his having filed O.A. before the Administrative Tribunal, a stay was granted whereby, the department was directed to reengage him in the same post and accordingly, he was engaged and worked till August, 2011. During that period, he had worked under different beats namely Meela beat, Lodga Manan, Kofta, Khalanda, Panog, Jakando etc. It is alleged that before, orally terminating his services w.e.f. 1.9.2011, the mandatory provisions of the Industrial Disputes

Act, 1947 (hereinafter referred as Act) had not been complied with. It is further averred that the concerned forest officials had assured to reengage him, when he used to visit the office of DFO and Range Officer, from time to time. Moreover, respondent no.2 (Forest Range Officer, Shillai) was not competent to terminate his services. In each calendar year, he had been completing 240 days. Further, juniors to him namely S/Shri Ratti Ram and Rajinder are still working with the respondents. Thus, his alleged termination is also in violation of the provisions of the Act as the principles of last come first go was not followed by the department. W.e.f. 1.9.2011, when his services were terminated, he has been un-employed. It is further stated that when his services were not engaged, he filed a demand notice before Labour-cum-Conciliation Officer, Nahan but despite the expiry of more than forty five days, the appropriate government had failed to make a reference to this Court. Against this back-drop a prayer has been made for his reinstatement w.e.f. 1.9.2011, along-with all consequential service benefits and also to regularize his services since he has completed the required eight years of service.

2. The petition has been contested on having raised preliminary objection qua maintainability. On merits, it has been asserted that the petitioner had been engaged as daily waged labourer for seasonal forestry works in Shillai Range of Renukaji Forest Division from 1999 but he could not complete 240 days in each calendar year. The petitioner had filed O.A No. 771 of 2000, before the Administrative Tribunal. As per mandays chart, it is quite clear that he had attended seasonal forestry works from 1999 to 2008 but could not complete 240 days in each calendar year. The seniority list which has been given by Shri Khatri Ram, the then Range Officer, Shillai, was found not to be based on the records. Moreover, he (Forest Range Officer Shillai) was not competent to give seniority list, directly, to the petitioner. It is further averred that the petitioner used to work in a casual manner and left the work, when desired, on his own sweet will. After the year, 2008, he did not come to work. It is further specifically denied that he had approached the respondents as alleged. As far as Ratti Ram and Rajinder Singh daily wagers are concerned, they are senior to the petitioner. No junior person to the petitioner has been retained by the respondents. Other allegations denied.

3. By filing rejoinder, the petitioner has reiterated his own allegations by denying those of the respondent.

4. Pleadings of the parties gave rise to the following issues which were struck on 17.7.2013.

5. Whether the termination of the services of the petitioner w.e.f. 1.9.2011, without following the mandatory provisions of the Industrial Disputes Act, 1947 is illegal and unjustified as alleged? ..OPP.
6. If issue no.1 is proved in affirmative to what relief the petitioner is entitled to as alleged? ..OPP.
7. Whether this petition not maintainable as alleged? ..OPR.

Relief

5. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under.

Issue no.1 Yes accordingly.

Issue no.2 Entitled to reinstatement with seniority and continuity but without back wages.

Issue no.3 No.

Relief. Petition allowed per operative part of award/order.

Reasons for findings

Issue no.1

7. It has been specifically alleged by the petitioner that his services had been terminated by the respondents w.e.f. 1.9.2011, in contravention of the provisions of the Act. The defence version is to this effect that, in fact, he had worked till the year 2008 without having completed 240 days in each calendar year.

8. The petitioner, when appeared in the witness box as PW-1, has supported his entire version, as stated in the petition, on all material counts, including that initially, he had worked from 1999 to 2000, when his services were terminated. He was reengaged, since on his original application, the Administrative Tribunal had stayed his termination. Thereafter, he had worked up to August, 2011, with fictional breaks in different beats. On 1.9.2011, his services had been terminated, orally, without notice and compensation. Although, he had kept on visiting the office of the respondents but he was not reinstated. Then, he served a demand notice, which is Ex. PW-1/A. Since, the reference was not made within 45 days, he filed a direct claim before this Court. Persons junior to him namely S/Shri Rajinder Ram, Bir Singh, Attar Singh, Sant Ram, Ratti Ram and Dhir Singh are still working with the department. In each calendar year, he had completed 240 days. From the time of his termination, he is un-employed. In the cross-examination, he denied that in the year, 2008, on his own, he had left the job. He also denied not to have remained in job from 1999 to 2008. He further denied not to have worked with the department for the years, 2009, 2010 and 2011. He clarified to have received wages for the years, 2009, 2010 and 2011. He denied that Ratti Ram, Bir Singh, Sant Ram etc. are senior to him. He further denied that seniority list is not correct.

9. According to Shri Mani Ram (PW-2), the petitioner had worked with the Forest Department in the years, 2009, 2010 and 2011, along-with him. In the cross-examination, he admitted that attendance of a workman is marked.

10. Shri Vinay Pal (PW-3), states from the summoned records that in the month of Feb., 2011, the petitioner had worked in Lodga nursery, for which, he had also been paid salary. Ex. Pw 3/A, is the copy of the bill book. As per records, Ratti Ram had been engaged in the year, 2001, who is still working. In the cross-examination, he states that in the year, 2011, the petitioner had been working on bill basis and not on muster roll. Ratti Ram has been working on the orders of the Court.

11. According to Ran Singh (PW-4), the petitioner had worked in the years, 2009 to 2011. In the cross-examination, he denied that, at present, the work in the department is carried out on bill basis. He denied that in the year, 2008, the petitioner had left the job, on his own.

12. According to Shri Vijay Pal (RW-1), in the month of March, 1999, the petitioner had been engaged as daily wager for seasonal forestry work in Shillai Range. He (petitioner) used to work as per the availability of the work and that Ex. RW- 1/A (objected to) is his mandays chart. He had never worked for 240 days in any of the years except 2005, as per records. The seniority list issued by Khatri Ram was neither based on records nor he was authorized to issue such list. In the month of Mach, 2008, the petitioner had left the job, on his own. The department had never

terminated his services. Workers namely Bir Singh, Ratti Ram and Sent Ram had been engaged for seasonal forestry works in the years 1986, 1999, 1998 and 1999 respectively along-with the petitioner. They are senior to the petitioner. As far as Kalyan Singh is concerned, he had never worked with the department. In the month of December, 2013, the petitioner had been reengaged and worked for five days. In the month of Jan., 2014, he had worked for eight days on bill basis. In the cross-examination, he admitted that against his termination, the petitioner had filed OA No. 771/2000 before Administrative Tribunal which had directed the respondents to reengage him in the same capacity and in the same place. Consequent upon the orders of the Administrative Tribunal, the petitioner was reengaged. He denied that the petitioner had worked till 2014 in different beats. The petitioner had neither been issued any notice nor paid compensation. He denied that the petitioner had completed more than 240 days in each calendar year and that Ex. RW-1/A is not correct as per records. Since, he has not prepared mandays chart, Ex. RW-1/A, he could not say whether it is correct or false. He admitted that Ratti Ram is still working with the department, who is junior to the petitioner. He further admitted that junior persons to the petitioner are still working with the department. He also admitted that the work, which the petitioner had been performing, is still available with the department.

13. Although, the petitioner has stated that in each calendar year, he had completed 240 days but in support of his such version, he has not produced any documentary evidence. On the contrary, the respondents have brought, on record, the mandays chart of the petitioner which is Ex. RW-1/A. Its perusal goes to show that the petitioner had not completed 240 days in any of the calendar year from 1999 to 2008. It is true that as per the respondents, the petitioner had worked till march, 2008 but the petitioner has led evidence that he had also worked for the years 2009, 2010 and 2011. From the statement of RW-1 (Vijay Pal), it is further borne out that during the pendency of this petition, the petitioner had been reengaged in the month of December, 2003 and he also worked in the month of Jan., 2014. In my considered view, the petitioner has failed to prove that he has completed 240 days in a calendar year preceding his termination, in the month of August, 2011. To claim benefit under section 25-F of the Act, it was upon the petitioner to have established that prior to his termination, he had completed 240 days. It has been held in **2009 (120) FLR 1007 an Civil Appeal no. 4468 of 2005 of Hon'ble Supreme Court incase titled as Relip Nagarpalika Vs. Babuji Gabhaji Thakore and others** that:

“The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer.”

Since, the petitioner has failed to prove that he had worked continuously for 240 days in the preceding one year from the date of his termination, his alleged termination cannot be said to be in contravention of the provisions of section 25-F of the Act.

14. Here, it is further to be noted that the petitioner has also challenged his termination to be illegal and unjustified on the ground that his juniors have been kept in service. From the evidence, on record, he has proved that Ratti Ram is junior to him. In this way, his termination w.e.f. 1.9.2011, can be said to be in violation of the provisions of section 25-G and 25-H of the Act. It has been held by our own Hon'ble High Court, incase titled as **State of HP & Others V/s Bhatag Ram & Anr. as reported in latest HLJ 2007 (HP) 903**. that :—

“Continuing of 240 days is not necessary in 12 calendar months. It is not necessary to workman to complete 240 days during 12 months for taking the benefits of section 25-G & 25-H of the Act.”

15. For my above discussion and law laid down by the Hon'ble High Court (supra), I have no hesitation in holding that the services of the petitioner had been terminated/disengaged, illegally and in an unjustified manner and that too without complying with the provisions of the Act. Accordingly, my answer to this issue is in "Yes".

Issue no. 2

16. The contention of the petitioner is to this effect that he is unemployed from the date, when his services were terminated. I may mention that from the evidence, on record, as referred to above, it is abundantly clear that even after his termination w.e.f. 1.9.2011, he had been doing the work. Ld. Counsel for the petitioner has relied upon **2014 LLR 1075, Raghubir Singh Vs. General Manager, Haryana Roadways Hissar**, in support of his contention that the petitioner is entitled to be reinstated with full back wages. I may mention that this ruling is not applicable to the facts of the present case because in the said case, the services of the employee had been terminated without conducting enquiry but in the instant case, it is not the claim of the petitioner that his services had been terminated without conducting enquiry. Here, I may point-out that *the Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla* has ruled that **"full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry"**.

17. The petitioner has also claimed regularization in service. His such claim cannot be taken by this Court because as far as the regularization is concerned, it is to be ordered by the department concerned as per the Policy of the State Government regarding regularization of daily wagers.

18. Consequently, for what has been stated and observed above, the petitioner is held entitled to be reinstated in service with seniority and continuity but without back wages. Thus, my answer to this issue is in "Yes".

Issue no.3

19. An objection has been taken by the respondents that this petition is not maintainable because it was filed after three years from the date when the petitioner had left the job. I may mention that Limitation Act is not applicable to the proceedings under the Act. Further, on record, the petitioner has proved that his junior Ratti Ram is still working with the respondents and for this reason, his alleged termination is in violation of the provisions of the Act. Thus, when the petitioner has proved his termination w.e.f. 1.9.2011, to be in violation of the provisions of the Act, I hold that his petition, filed directly before this Court, is maintainable. By holding it to be maintainable, my answer to this issue is in "no".

Relief.

As a sequel to my discussion/findings on the aforesaid issues, the claim of the petitioner is partly allowed and as such the respondents are directed to reinstate him with seniority and continuity but without back wages. Let a copy of this award/order be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 2nd Jan., 2015.

(A.S JASWAL)
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

App. No. 66 of 2012.

Instituted on 15.12.2012.

Decided on. 2.1.2015.

Daulat Ram S/o Shri Kali Ram R/o Village Nagwa, P.O Halla, Sub Tehsil Rohnat, District
Sirmour, HP. *. .Petitioner.*

VS.

5. The Divisional Forest Officer, Renukaji Forest Division, District Sirmour, HP.

6. The Forest Range Officer Shillai, Forest Range Shillai, District Sirmour, HP.

. .Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947.

For petitioner: Shri R.K Khidta, Advocate.

For respondent: Shri Surender Negi, Dy. DA.

AWARD/Order

Briefly, the case of the petitioner is that he was engaged, as forest worker, by the department, in Lodga Manan beat under Shillai Range, Division Renukaji, in the month of Jan., 1999 and worked as such till the year, 2000. Thereafter, his services had been illegally terminated by the department. Consequent upon his having filed O.A. before the Administrative Tribunal, a stay was granted whereby, the department was directed to reengage him in the same post and accordingly, he was engaged and worked till August, 2011. During that period, he had worked under different beats namely Khalanda, Kofta, Noradhar, Panog, Jakando etc. It is alleged that before, orally terminating his services w.e.f. 1.9.2011, the mandatory provisions of the Industrial Disputes Act, 1947 (hereinafter referred as Act) had not been complied with. It is further averred that the concerned forest officials had assured to reengage him, when he used to visit the office of DFO and Range Officer, from time to time. Moreover, respondent no.2 (Forest Range Officer, Shillai) was not competent to terminate his services. In each calendar year, he had been completing 240 days. Further, juniors to him namely S/Shri Ratti Ram and Rajinder Singh are still working with the respondents. Thus, his alleged termination is also in violation of the provisions of the Act as the principles of last come first go was not followed by the department. W.e.f. 1.9.2011, when his services were terminated, he has been un-employed. It is further stated that when his services were not engaged, he filed a demand notice before Labour-cum-Conciliation Officer, Nahan but despite the expiry of more than forty five days, the appropriate government had failed to make a reference to this Court. Against this back-drop a prayer has been made for his reinstatement w.e.f. 1.9.2011, along-with all consequential service benefits and also to regularize his services since he has completed the required eight years of service.

2. The petition has been contested on having raised preliminary objection qua maintainability. On merits, it has been asserted that the petitioner had been engaged as daily waged labourer for seasonal forestry works in Shillai Range of Renukaji Forest Division from 1998 but he

could not complete 240 days in each calendar year. The petitioner had filed O.A No. 3597 of 2000, before the Administrative Tribunal. As per mandays chart, it is quite clear that he had attended seasonal forestry works from 1998 to 2008 but could not complete 240 days in each calendar year. The seniority list which has been given by Shri Khatri Ram, the then Range Officer, Shillai, was found not to be based on the records. Moreover, he (Forest Range Officer Shillai) was not competent to give seniority list, directly, to the petitioner. It is further averred that the petitioner used to work in a casual manner and left the work, when desired, on his own sweet will. After the year, 2008, he did not come to work. It is further specifically denied that he had approached the respondents as alleged. As far as Ratti Ram and Rajinder Singh daily wagers are concerned, they are senior to the petitioner. No junior person to the petitioner has been retained by the respondents. Other allegations denied.

3. By filing rejoinder, the petitioner has reiterated his own allegations by denying those of the respondent.

4. Pleadings of the parties gave rise to the following issues which were struck on 17.7.2013.

8. Whether the termination of the services of the petitioner w.e.f. 1.9.2011, without following the mandatory provisions of the Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . . . *OPP.*

9. If issue no.1 is proved in affirmative to what relief the petitioner is entitled to as alleged? . . . *OPP.*

10. Whether this petition not maintainable as alleged? . . . *OPR.*

11. Relief.

5. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under.

Issue no.1 Yes accordingly.

Issue no.2 Entitled to reinstatement with seniority and continuity but without back wages.

Issue no.3 No.

Relief. Petition allowed per operative part of award/order.

Reasons for findings.

Issue no.1

7. It has been specifically alleged by the petitioner that his services had been terminated by the respondents w.e.f. 1.9.2011, in contravention of the provisions of the Act. The defence version is to this effect that, in fact, he had worked till the year 2008, without having completed 240 days in each calendar year.

8. The petitioner, when appeared in the witness box as PW-1, has supported his entire version, as stated in the petition, on all material counts, including that initially, he had worked from 1999 to 2000, when his services were terminated. He was reengaged, since on his original application, the Administrative Tribunal had stayed his termination. Thereafter, he had worked up to August, 2011, with fictional breaks in different beats. On 1.9.2011, his services had been terminated, orally, without notice and compensation. Although, he had kept on visiting the office of the respondents but he was not reinstated. Then, he served a demand notice, which is Ex. PW-1/A. Since, the reference was not made within 45 days, he filed a direct claim before this Court. Persons junior to him namely S/Shri Rajinder Ram, Bir Singh, Attar Singh, Sant Ram, Ratti Ram and Dhir Singh are still working with the department. In each calendar year, he had completed 240 days. From the time of his termination, he is un-employed. In the cross-examination, he denied that in the year, 2008, on his own, he had left the job. He also denied not to have remained in job from 1999 to 2008. He further denied not to have worked with the department for the years, 2009, 2010 and 2011. He clarified to have received wages for the years, 2009, 2010 and 2011. He denied that Ratti Ram, Bir Singh, Sant Ram etc. are senior to him. He further denied that seniority list is not correct.

9. According to Shri Mani Ram (PW-2), the petitioner had worked with the Forest Department in the years, 2009, 2010 and 2011, along-with him. In the cross-examination, he admitted that attendance of a workman is marked.

10. Shri Vinay Pal (PW-3), states from the summoned records that in the month of Feb., 2011, the petitioner had worked in Lodga nursery, for which, he had also been paid salary. Ex. PW 3/A, is the copy of the bill book. As per records, Ratti Ram had been engaged in the year, 2001, who is still working. In the cross-examination, he states that in the year, 2011, the petitioner had been working on bill basis and not on muster roll. Ratti Ram has been working on the orders of the Court.

11. According to Ran Singh (PW-4), the petitioner had worked in the years, 2009 to 2011. In the cross-examination, he denied that, at present, the work in the department is carried out on bill basis. He denied that in the year, 2008, the petitioner had left the job, on his own.

12. According to Shri Vijay Pal (RW-1), in the month of March, 1999, the petitioner had been engaged as daily wager for seasonal forestry work in Shillai Range. He (petitioner) used to work as per the availability of the work and that Ex. RW- 1/A (objected to) is his mandays chart. He had never worked for 240 days in any of the years except 2005, as per records. The seniority list issued by Khatri Ram was neither based on records nor he was authorized to issue such list. In the month of Mach, 2008, the petitioner had left the job, on his own. The department had never terminated his services. Workers namely Bir Singh, Ratti Ram and Sent Ram had been engaged for seasonal forestry works in the years 1986, 1999, 1998 and 1999 respectively along-with the petitioner. They are senior to the petitioner. As far as Kalyan Singh is concerned, he had never worked with the department. In the month of December, 2013, the petitioner had been reengaged and worked for five days. In the month of Jan., 2014, he had worked for eight days on bill basis. In the cross-examination, he admitted that against his termination, the petitioner had filed OA No. 771/2000 before Administrative Tribunal which had directed the respondents to reengage him in the same capacity and in the same place. Consequent upon the orders of the Administrative Tribunal, the petitioner was reengaged. He denied that the petitioner had worked till 2014 in different beats. The petitioner had neither been issued any notice nor paid compensation. He denied that the petitioner had completed more than 240 days in each calendar year and that Ex. RW-1/A is not correct as per records. Since, he has not prepared mandays chart, Ex. RW-1/A, he could not say whether it is correct or false. He admitted that Ratti Ram is still working with the department, who is junior to the petitioner. He further admitted that junior persons to the petitioner are still working with the department. He also admitted that the work, which the petitioner had been performing, is still available with the department.

13. Although, the petitioner has stated that in each calendar year, he had completed 240 days but in support of his such version, he has not produced any documentary evidence. On the contrary, the respondents have brought, on record, the mandays chart of the petitioner which is Ex. RW-1/A. Its perusal goes to show that the petitioner had not completed 240 days in any of the calendar year from 1999 to 2008. It is true that as per the respondents, the petitioner had worked till march, 2008 but the petitioner has led evidence that he had also worked for the years 2009, 2010 and 2011. From the statement of RW-1 (Vijay Pal), it is further borne out that during the pendency of this petition, the petitioner had been reengaged in the month of December, 2003 and he also worked in the month of Jan., 2014. In my considered view, the petitioner has failed to prove that he has completed 240 days in a calendar year preceding his termination, in the month of March, 2012. To claim benefit under section 25-F of the Act, it was upon the petitioner to have established that prior to his termination, he had completed 240 days. It has been held in **2009 (120) FLR 1007 an Civil Appeal no. 4468 of 2005 of Hon'ble Supreme Court incase titled as Relip Nagarpalika Vs. Babuji Gabhaji Thakore and others** that:

“The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer.”

Since, the petitioner has failed to prove that he had worked continuously for 240 days in the preceding one year from the date of his termination, his alleged termination cannot be said to be in contravention of the provisions of section 25-F of the Act.

14. Here, it is further to be noted that the petitioner has also challenged his termination to be illegal and unjustified on the ground that his juniors have been kept in service. From the evidence, on record, he has proved that Ratti Ram is junior to him. In this way, his termination w.e.f. 1.9.2011, can be said to be in violation of the provisions of section 25-G and 25-H of the Act. It has been held by our own Hon'ble High Court, incase titled as **State of HP & Others V/s Bhatag Ram & Anr. as reported in latest HLJ 2007 (HP) 903**. that :-

“Continuing of 240 days is not necessary in 12 calendar months. It is not necessary to workman to complete 240 days during 12 months for taking the benefits of section 25-G & 25-H of the Act.”

15. For my above discussion and law laid down by the Hon'ble High Court (supra), I have no hesitation in holding that the services of the petitioner had been terminated/disengaged, illegally and in an unjustified manner and that too without complying with the provisions of the Act. Accordingly, my answer to this issue is in “Yes”.

Issue no.2

16. The contention of the petitioner is to this effect that he is unemployed from the date, when his services were terminated. I may mention that from the evidence, on record, as referred to above, it is abundantly clear that even after his termination w.e.f. 1.9.2011, he had been doing the work. Ld. Counsel for the petitioner has relied upon **2014 LLR 1075, Raghubir Singh Vs. General Manager, Haryana Roadways Hissar**, in support of his contention that the petitioner is entitled to be reinstated with full back wages. I may mention that this ruling is not applicable to the facts of the present case because in the said case, the services of the employee had been terminated without conducting enquiry but in the instant case, it is not the claim of the petitioner that his services had been terminated without conducting enquiry. Here, I may point-out that *the Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla* has ruled that *“full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back*

wages even for the period when the workman remained out of service and contributed little or nothing to the Industry”.

17. The petitioner has also claimed regularization in service. His such claim cannot be taken by this Court because as far as the regularization is concerned, it is to be ordered by the department concerned as per the Policy of the State Government regarding regularization of daily wagers.

18. Consequently, for what has been stated and observed above, the petitioner is held entitled to be reinstated in service with seniority and continuity but without back wages. Thus, my answer to this issue is in “Yes”.

Issue no.3

19. An objection has been taken by the respondents that this petition is not maintainable because it was filed after three years from the date when the petitioner had left the job. I may mention that Limitation Act is not applicable to the proceedings under the Act. Further, on record, the petitioner has proved that his junior Ratti Ram is still working with the respondents and for this reason, his alleged termination is in violation of the provisions of the Act. Thus, when the petitioner has proved his termination w.e.f. 1.9.2011, to be in violation of the provisions of the Act, I hold that his petition, filed directly before this Court, is maintainable. By holding it to be maintainable, my answer to this issue is in “no”.

Relief.

As a sequel to my discussion/findings on the aforesaid issues, the claim of the petitioner is partly allowed and as such the respondents are directed to reinstate him with seniority and continuity but without back wages. Let a copy of this award/order be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 2nd Jan., 2015.

(A.S JASWAL)
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**IN THE COURT OF A. S. JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

App. No. 67 of 2012.

Instituted on 15.12.2012.

Decided on. 2.1.2015.

Giaru Ram S/o Shri Jeet Ram R/o Village Junjali (Kalwa), P.O Zarwa, Tehsil Shillai, Sub
Tehsil Rohnat, District Sirmour, HP. . *Petitioner.*

VS.

7. The Divisional Forest Officer, Renukaji Forest Division, District Sirmour, HP.
8. The Forest Range Officer Shillai, Forest Range Shillai, District Sirmour, HP.

. Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947.

For petitioner: Shri R.K Khidta, Advocate.

For respondent: Shri Surender Negi, Dy. DA.

AWARD/Order

Briefly, the case of the petitioner is that he was engaged, as forest worker, by the department, in Lodga Manan beat under Shillai Range, Division Renukaji, in the year, 1999 and worked as such till the year, 2000. Thereafter, his services had been illegally terminated by the department. Consequent upon his having filed O.A. before the Administrative Tribunal, a stay was granted whereby, the department was directed to reengage him in the same post and accordingly, he was engaged and worked till March, 2012. During that period, he had worked under different beats namely Lodga Manan, Khalanda, Panog, Jakando etc. It is alleged that before, orally terminating his services w.e.f. 1.4.2012, the mandatory provisions of the Industrial Disputes Act, 1947 (hereinafter referred as Act) had not been complied with. It is further averred that the concerned forest officials had assured to reengage him, when he used to visit the office of DFO and Range Officer, from time to time. Moreover, respondent no.2 (Forest Range Officer, Shillai) was not competent to terminate his services. In each calendar year, he had been completing 240 days. Further, juniors to him namely S/Shri Ratti Ram and Rajinder are still working with the respondents. Thus, his alleged termination is also in violation of the provisions of the Act as the principles of last come first go was not followed by the department. W.e.f. 1.4.2012, when his services were terminated, he has been un-employed. It is further stated that when his services were not engaged, he filed a demand notice before Labour-cum-Conciliation Officer, Nahan but despite the expiry of more than forty five days, the appropriate government had failed to make a reference to this Court. Against this back-drop a prayer has been made for his reinstatement w.e.f. 1.4.2012, along-with all consequential service benefits and also to regularize his services since he has completed the required eight years of service.

2. The petition has been contested on having raised preliminary objection qua maintainability. On merits, it has been asserted that the petitioner had been engaged as daily waged labourer for seasonal forestry works in Shillai Range of Renukaji Forest Division from 1999 but he could not complete 240 days in each calendar year. The petitioner had filed O.A No. 3593 of 2000, before the Administrative Tribunal. As per mandays chart, it is quite clear that he had attended seasonal forestry works from 1999 to 2008 but could not complete 240 days in each calendar year. The seniority list which has been given by Shri Khatri Ram, the then Range Officer, Shillai, was found not to be based on the records. Moreover, he (Forest Range Officer Shillai) was not competent to give seniority list, directly, to the petitioner. It is further averred that the petitioner used to work in a casual manner and left the work, when desired, on his own sweet will. After the year, 2008, he did not come to work. It is further specifically denied that he had approached the respondents as alleged. As far as Ratti Ram and Rajinder Singh daily wagers are concerned, they are senior to the petitioner. No junior person to the petitioner has been retained by the respondents. Other allegations denied.

3. By filing rejoinder, the petitioner has reiterated his own allegations by denying those of the respondent.

4. Pleadings of the parties gave rise to the following issues which were struck on 17.7.2013.

12. Whether the termination of the services of the petitioner w.e.f. 1.4.2012, without following the mandatory provisions of the Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . .OPP.

13. If issue no.1 is proved in affirmative to what relief the petitioner is entitled to as alleged? . .OPP.

14. Whether this petition not maintainable as alleged? . .OPR.

15. Relief.

5. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under.

Issue no.1 Yes accordingly.

Issue no.2 Entitled to reinstatement with seniority and continuity but without back wages.

Issue no.3 No.

Relief. Petition allowed per operative part of award/order.

Reasons for findings

Issue no.1

7. It has been specifically alleged by the petitioner that his services had been terminated by the respondents w.e.f. 1.4.2012, in contravention of the provisions of the Act. The defence version is to this effect that, in fact, he had worked till the year 2008 without having completed 240 days in each calendar year.

8. The petitioner, when appeared in the witness box as PW-1, has supported his entire version, as stated in the petition, on all material counts, including that initially, he had worked from 1999 to 2000, when his services were terminated. He was reengaged, since on his original application, the Administrative Tribunal had stayed his termination. Thereafter, he had worked up to March, 2012, with fictional breaks in different beats. On 1.4.2012, his services had been terminated, orally, without notice and compensation. Although, he had kept on visiting the office of the respondents but he was not reinstated. Then, he served a demand notice, which is Ex. PW-1/A. Since, the reference was not made within 45 days, he filed a direct claim before this Court. Persons junior to him namely S/Shri Rajinder Ram, Bir Singh, Attar Singh, Sant Ram, Ratti Ram and Dhir Singh are still working with the department. In each calendar year, he had completed 240 days. From the time of his termination, he is un-employed. In the cross-examination, he denied that in the year, 2008, on his own, he had left the job. He also denied to have remained in job from 1999 to 2008. He further denied not to have worked with the department for the years, 2009, 2010 and 2011. He clarified to have received wages for the years, 2009, 2010 and 2011. He denied that Ratti Ram, Bir Singh, Sant Ram etc. are senior to him. He further denied that seniority list is not correct.

9. According to Shri Mani Ram (PW-2), the petitioner had worked with the Forest Department in the years, 2009, 2010 and 2011, along-with him. In the cross-examination, he admitted that attendance of a workman is marked.

10. Shri Vinay Pal (PW-3), states from the summoned records that in the month of Feb., 2011, the petitioner had worked in Lodga nursery, for which, he had also been paid salary. Ex. Pw-3/A, is the copy of the bill book. As per records, Ratti Ram had been engaged in the year, 2001, who is still working. In the cross-examination, he states that in the year, 2011, the petitioner had been working on bill basis and not on muster roll. Ratti Ram has been working on the orders of the Court.

11. According to Ran Singh (PW-4), the petitioner had worked in the years, 2009 to 2011. In the cross-examination, he denied that, at present, the work in the department is carried out on bill basis. He denied that in the year, 2008, the petitioner had left the job, on his own.

12. According to Shri Vijay Pal (RW-1), in the month of March, 1999, the petitioner had been engaged as daily wager for seasonal forestry work in Shillai Range. He (petitioner) used to work as per the availability of the work and that Ex. RW- 1/A (objected to) is his mandays chart. He had never worked for 240 days in any of the years except 2005, as per records. The seniority list issued by Khatri Ram was neither based on records nor he was authorized to issue such list. In the month of Mach, 2008, the petitioner had left the job, on his own. The department had never terminated his services. Workers namely Bir Singh, Ratti Ram and Sent Ram had been engaged for seasonal forestry works in the years 1986, 1999, 1998 and 1999 respectively along-with the petitioner. They are senior to the petitioner. As far as Kalyan Singh is concerned, he had never worked with the department. In the month of December, 2013, the petitioner had been reengaged and worked for five days. In the month of Jan., 2014, he had worked for eight days on bill basis. In the cross-examination, he admitted that against his termination, the petitioner had filed OA No. 771/2000 before Administrative Tribunal which had directed the respondents to reengage him in the same capacity and in the same place. Consequent upon the orders of the Administrative Tribunal, the petitioner was reengaged. He denied that the petitioner had worked till 2014 in different beats. The petitioner had neither been issued any notice nor paid compensation. He denied that the petitioner had completed more than 240 days in each calendar year and that Ex. RW-1/A is not correct as per records. Since, he has not prepared mandays chart, Ex. RW-1/A, he could not say whether it is correct or false. He admitted that Ratti Ram is still working with the department, who is junior to the petitioner. He further admitted that junior persons to the petitioner are still working with the department. He also admitted that the work, which the petitioner had been performing, is still available with the department.

13. Although, the petitioner has stated that in each calendar year, he had completed 240 days but in support of his such version, he has not produced any documentary evidence. On the contrary, the respondents have brought, on record, the mandays chart of the petitioner which is Ex. Rw-1/A. Its perusal goes to show that the petitioner had not completed 240 days in any of the calendar year from 1999 to 2008. It is true that as per the respondents, the petitioner had worked till march, 2008 but the petitioner has led evidence that he had also worked for the years 2009, 2010 and 2011. From the statement of RW-1 (Vijay Pal), it is further borne out that during the pendency of this petition, the petitioner had been reengaged in the month of December, 2003 and he also worked in the month of Jan., 2014. In my considered view, the petitioner has failed to prove that he has completed 240 days in a calendar year preceding his termination, in the month of March, 2012. To claim benefit under section 25-F of the Act, it was upon the petitioner to have established that prior to his termination, he had completed 240 days. It has been held in **2009 (120) FLR 1007 an Civil Appeal no. 4468 of 2005 of Hon'ble Supreme Court incase titled as Relip Nagarpalika Vs. Babuji Gabhaji Thakore and others** that:\

“The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer.”

Since, the petitioner has failed to prove that he had worked continuously for 240 days in the preceding one year from the date of his termination, his alleged termination cannot be said to be in contravention of the provisions of section 25-F of the Act.

14. Here, it is further to be noted that the petitioner has also challenged his termination to be illegal and unjustified on the ground that his juniors have been kept in service. From the evidence, on record, he has proved that Ratti Ram is junior to him. In this way, his termination w.e.f. 1.4.2012, can be said to be in violation of the provisions of section 25-G and 25-H of the Act. It has been held by our own Hon'ble High Court, incase titled as ***State of HP & Others V/s Bhatag Ram & Anr. as reported in latest HLJ 2007 (HP) 903***. that :-

“Continuing of 240 days is not necessary in 12 calendar months. It is not necessary to workman to complete 240 days during 12 months for taking the benefits of section 25-G & 25-H of the Act.”

15. For my above discussion and law laid down by the Hon'ble High Court (supra), I have no hesitation in holding that the services of the petitioner had been terminated/disengaged, illegally and in an unjustified manner and that too without complying with the provisions of the Act. Accordingly, my answer to this issue is in “Yes”.

Issue no. 2

16. The contention of the petitioner is to this effect that he is unemployed from the date, when his services were terminated. I may mention that from the evidence, on record, as referred to above, it is abundantly clear that even after his termination w.e.f. 1.4.2012, he had been doing the work. Ld. Counsel for the petitioner has relied upon **2014 LLR 1075, Raghubir Singh Vs. General Manager, Haryana Roadways Hissar**, in support of his contention that the petitioner is entitled to be reinstated with full back wages. I may mention that this ruling is not applicable to the facts of the present case because in the said case, the services of the employee had been terminated without conducting enquiry but in the instant case, it is not the claim of the petitioner that his services had been terminated without conducting enquiry. Here, I may point-out that ***the Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla*** has ruled that

“full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry”.

17. The petitioner has also claimed regularization in service. His such claim cannot be taken by this Court because as far as the regularization is concerned, it is to be ordered by the department concerned as per the Policy of the State Government regarding regularization of daily wagers.

18. Consequently, for what has been stated and observed above, the petitioner is held entitled to be reinstated in service with seniority and continuity but without back wages. Thus, my answer to this issue is in “Yes”.

Issue no. 3

19. An objection has been taken by the respondents that this petition is not maintainable because it was filed after three years from the date when the petitioner had left the job. I may

mention that Limitation Act is not applicable to the proceedings under the Act. Further, on record, the petitioner has proved that his junior Ratti Ram is still working with the respondents and for this reason, his alleged termination is in violation of the provisions of the Act. Thus, when the petitioner has proved his termination w.e.f. 1.4.2012, to be in violation of the provisions of the Act, I hold that his petition, filed directly before this Court, is maintainable. By holding it to be maintainable, my answer to this issue is in “no”.

Relief

As a sequel to my discussion/findings on the aforesaid issues, the claim of the petitioner is partly allowed and as such the respondents are directed to reinstate him with seniority and continuity but without back wages. Let a copy of this award/order be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 2nd Jan., 2015.

(A.S JASWAL)
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL-CUM- LABOUR COURT, SHIMLA.**

Ref no. 57of 2011.

Instituted on 26.12.2011.

Decided on 03.01.2015.

Amrit Singh S/o Shri Vijay Singh, R/o Village Barada, P.O. Arahal, Tehsil Rohru, District.
Shimla, H.P. *.Petitioner.*

V.S.

The Executive Engineer, HPSEB Division Rohru, District. Shimla H.P. *.Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri R.K Khidta, Advocate.

For respondent: Shri Ramakant Sharma, Advocate.

AWARD

The reference, for adjudication, is as under:

“Whether termination of the services of Sh. Amrit Singh S/o Sh. Vijay Singh, Village Barada, P.O.- Arahal, Tehsil Rohru, District Shimla, w.e.f. February/March, 1998 by the Executive Engineer, HPSEB Division Rohru, Distt. Shimla, H.P. without

complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what relief of service benefits including reinstatement, seniority and back wage the above workman is entitled to?"

2. In nutshell, the case of the petitioner is that he was engaged as beldar/worker by the respondent Board on 26.1.1995 and worked till 27.9.1995. On 28.9.1995, his services were terminated in violation of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred as Act). Against his illegal termination, he filed CWP no 2374/1995, before the Hon'le High Court which was ordered to be treated as his representation. On receiving the same (representation), the petitioner was reengaged w.e.f. 26.12.1996 and worked till 25.3.1997. W.e.f 26.3.1997, his services were again terminated in violation of the provisions of the Act as well as standing orders of the Board. Thus, he was forced to file OA No. 673 of 1997, before the Administrative Tribunal, Shimla. During the pendency of the OA, he was reengaged w.e.f. 2.6.1997 and worked till 5.3.1998. The OA was finally decided on 12.9.1997. Again, his services were terminated on 6.3.1998, without complying with the provisions of the Act as well as standing orders. After his termination, he had been visiting the office of the respondent Board, repeatedly, and on account of the assurances, made to him, he remained under the impression that he would be taken back on the work but of no avail. Thus, he was again forced to file OA No. 3712 of 2003, before the Administrative Tribunal. On 24.12.2003, on having heard the parties, the Tribunal directed the respondent Board to reengage him if the some juniors were found to have been reengaged. However, that OA was dismissed on 13.4.2006, for want of presence of the parties. Immediately, after the decision of the OA, he (petitioner) filed demand notice to the respondent Board on 28.8.2006 which resulted in making a reference to this Court. It has been alleged that before his termination, the petitioner had completed 240 days in the preceding twelve calendar months. Apart from this, the respondent had also engaged new persons including one Smt. Susheela Kamta, who is junior to him. In this way, the respondent Board violated the provisions of sections 25-F, 25-G and 25-H of the Act. Against this back-drop, a prayed has been made for his reinstatement including full back-wages.

3. The claim of the petitioner has been contested on having raised various preliminary objections including maintainability, that the petitioner has concealed material facts from this Court and that the same deserves to be dismissed on account of delay and laches. On merits, it has been asserted that the petitioner was engaged as labourer/beldar for the work which was purely of causal nature and after the completion of the same his services stood automatically disengaged. It has been denied that the petitioner had worked from 27.6.1995 to 25.8.1995, with the Executive Engineer, Electrical Division, HPSEB Rohroo. Considering the representation of the petitioner, as per order of the Hon'ble High Court, he was engaged from 26.12.1996 to 25.1.1997 and 3.3.1997 to 25.3.1997. On 26.3.1997, his services stood terminated as there was no work available with the Board. The petitioner had filed OA No. 673 of 1997, before the Tribunal and he was engaged from 2.6.1997 to 2.10.1997 and from 6.11.1997 to 5.3.1998, according to the availability of work. It is further specifically averred that the services of the petitioner stood disengaged due to non availability of work. It has been denied that junior persons to the petitioner had been engaged by the Board. It has been specifically pleaded that Smt. Susheela Kamta, had not been engaged in the HPSEB Division Rohroo, at any time. Further, the petitioner had not completed 240 days in any calendar year. Other allegations denied.

4. By filing rejoinder, the petitioner has reaffirmed his own allegations by denying those of the respondent.

5. Pleadings of the parties gave rise to the following issues which were struck on 14.9.2012.

1. Whether the termination orders of petitioner w.e.f. 6.3.1998 are without complying with the mandatory provisions of Industrial Disputes Act, 1947? . . . *OPP.*

2. If issue no.1 is answered in affirmative, to what relief the petitioner is entitled to? . .OPP.
3. Whether this petition is not maintainable? . .OPR.
4. Whether the petitioner has suppressed the material facts? . .OPR.
5. Whether the petitioner has no cause of action? . .OPR.

Relief.

6. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 Accordingly in yes.

Issue no.2 Entitled to reinstatement with seniority and continuity but without back wages.

Issue no.3 No.

Issue no.4 No.

Issue no.5 No.

Relief. Reference answered in favour of the petitioner and against the respondent, per operative part of award.

Reasons for findings

Issue no. 1

8. It has been specifically alleged by the petitioner that in the twelve calendar months preceding his termination, he had completed 240 days and also that persons juniors to him, particularly, Smt. Susheela Kamta have been retained by the respondent. On the other hand, the defence plea is to this effect that since, the petitioner had been engaged to perform the work which was of purely casual nature, his services stood disengaged after the completion of the same and further that no person junior to him has been engaged/retained by the respondent.

9. In his affidavit, Ex. PW-1/A, the petitioner (PW-1) has supported all the facts as stated in the petition including that his services w.e.f. 6.3.1998, had been terminated in violation of the provisions of the Act and further that he had completed 240 days in twelve calendar months preceding his termination. His evidence is further to this effect that Smt. Susheel Kamta who is junior to him is still working with the respondent. Ex. PW-1/B, is the copy of order of Administrative Tribunal and Ex. PW-1/C, is the copy of his demand notice. In the cross examination, he stated that records pertaining to Smt. Susheela Kamta, has not been got summoned by him.

10. Shri Shyam Lal (PW-2), has stated from the summoned record that initial appointment of Smt. Susheela kamta, on daily wages basis, as beldar, is 20.7.1998. Presently, she has been working as helper in Sub Station, in their office.

11. According to Shri Sohan Lal (PW-3), Ex. PW-3/A, is the information which had been given to the petitioner under RTI Act and that the same is correct as per the records brought by him.

12. Shri Ram Prakash (RW-1), states that the petitioner who had been engaged on 30.1.1995, and worked till 25.9.1995, had not completed 240 days. Consequent upon his cases filed before Hon'ble High Court and Administrative Tribunal, he had been engaged. Lastly, he had remained engaged from 2.6.1997 to 5.3.1998. During that period, he had not completed 240 days. Ex. RW-1/A, is his mandays chart. No junior to the petitioner has been retained by the Board. In the cross-examination, he admitted that the petitioner had filed OA No. 673/1997, in the Administrative Tribunal and that w.e.f. 2.6.1997, till 5.3.1998, he had remained engaged. Self stated that on the completion of the work, his services stood terminated. The petitioner might have come to the department for work but for want of the same he could not have been reengaged. He admitted that the petitioner had also filed OA no. 3712 of 2003, in the Administrative Tribunal and that the department had been directed to reengage him if some junior had been found to be engaged. He admitted that neither any notice had been issued to the petitioner nor he was paid any compensation. He admitted that as per Ex. RW-1/A, the petitioner had completed 240 days in the twelve calendar months preceding his termination dated 5.3.1998. He denied that Electric Sub Station, Samoli comes under Electric Division Rohroo. He does not know that Smt. Susheel Kamta is working with the Board. He has no knowledge as to who is junior or senior to the petitioner. He admitted that Smt. Susheela Kamta had been given notice Ex, PY by the Board. The maintenance work is still going on with the respondent Board. He admitted that after his termination, the petitioner had kept on visiting the office of the respondent.

13. The petitioner, in his affidavit Ex. PW-1/A, has stated that before his termination, he has completed 240 days in the twelve calendar months preceding his termination. His such version has been admitted by Shri Ram Prakash (RW-1), in his cross-examination, wherein he has stated that in the twelve calendar months preceding 5.3.1998, the petitioner had completed more than 240 days as per Ex. RW-1/A. Since, from Ex. RW-1/A, the mandays chart of the petitioner, which has been relied upon by the respondent, it stands proved that before his alleged termination, he (petitioner) has completed 240 days in twelve calendar months, it was incumbent upon the respondent to have complied with the provisions of section 25-F of the Act before terminating his services. It has been admitted by Ram Prakash (RW-1) that neither any notice had been issued to the petitioner nor he was paid any retrenchment compensation. Thus, for the failure of the respondent to have complied with the provisions of section 25-F of the Act, the termination of the petitioner, w.e.f. 6.3.1998, is illegal and unjustified.

14. The petitioner has also proved that Smt. Susheel Kamta, who was appointed as beldar on 22.7.1998, is junior to him. Shri Sohan Lal (PW-3), has stated from the summoned record that information Ex. PW-3/A, had been given to the petitioner by their department and that the same is correct as per the summoned record. The perusal of Ex. PW-3/A, shows that Smt. Susheela Kamta, had been engaged on 20.7.1998 and that she is still in job. Ex. RW-1/A, goes to show that the petitioner had been engaged in the year, 1995 (30.1.1995). Thus, the petitioner further succeeds in proving that his junior Smt. Susheela Kamta is still in job and that his services were terminated w.e.f. 6.3.1998. Here, I would like to point-out from Ex. PW-1/A, it is further borne out that Smt. Susheel Kamta had been initially engaged on 20.7.1998 at Electric Sub Station, Samoli under Electrical Division, HPSEB, Rohroo as daily waged beldar. In this way, the alleged termination of the petitioner is also in violation of the provisions of sections 25-G and 25-H of the Act.

15. Consequently, for what has been stated and observed above, I have no hesitation in holding that the services of the petitioner had been terminated/disengaged, illegally and in an unjustified manner and that too without complying with the provisions of the Act. Accordingly, my answer to this issue is in "Yes".

Issue no. 2

16. The petitioner has claimed his reinstatement with all the consequential service benefits including full back wages. On the other hand, Ld. Counsel for the respondent has urged with vehemence that having regard to the short period for which the petitioner had remained engaged, he should be awarded compensation and not reinstatement. In support of his such contention, he has relied upon **(2013) 5 SCC 136, Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh**.

17. From the material, on record, it is abundantly clear that firstly, when the services of the petitioner had been terminated w.e.f. 28.9.1995, he had filed CWP No. 2374/1995, before the Hon'ble High Court. Since, his such writ was ordered to be treated as representation to the respondent Board, he was reengaged w.e.f. 26.12.1996 and worked till 25.3.1997. When his services were again terminated w.e.f. 26.3.1997, he knocked the door of the Administrative Tribunal by filing OA No. 675/1997 and during the pendency of the same, he was reengaged w.e.f. 2.6.1997 and continued to work till 5.3.1998. Here, I may mention that when the services of the petitioner were again terminated w.e.f. 6.3.1998, he kept on visiting the office of the respondent with the hope that he would be reengaged. It has been admitted by Shri Ram Prakash (RW-1) that the petitioner had been visiting the office after his termination. When the petitioner despite being assured to be reengaged, did not get job, he again filed OA No. 3712/2003 before the Administrative Tribunal, in which, vide order dated 24.12.2003, the respondent had been directed to reengage the petitioner if some junior person was found to be engaged. On the record, there is another order of the Administrative Tribunal dated 13.4.2006, whereby, the OA, filed by the petitioner had been dismissed for want of appearance. Ex. PW-1/C, is the copy of demand notice which the petitioner had raised. It is dated 28.3.2006. This clearly goes to show that from the date of his alleged termination i.e 6.3.1998, the petitioner had been taking steps, as per law, for getting himself reengaged. In these circumstances, it cannot be said that there had been lapses on his part in agitating his alleged termination. When, such is the position, the contention of the learned counsel for the respondent that the petitioner deserves to be awarded compensation in lieu of reinstatement does not appeal to me. As far as grant of back wages to the petitioner are concerned, I may mention that *the Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla* has ruled that ***"full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry"***.

18. Consequently, for what has been stated and observed above, the petitioner is held entitled to be reinstated in service with seniority and continuity but without back wages. Thus, my answer to this issue is in "Yes".

Issue no.3, 4 & 5.

19. Being interlinked and correlated, all these issues are taken up together for discussion and decision. Since, this Court is required to answer the reference, made by the appropriate government, it cannot be held that this petition is not legally maintainable for the reason that the petitioner has no cause of action and that he has suppressed material facts. Thus, by holding it to be maintainable, my answer to all these issues is in "no".

Relief.

As a sequel to my discussion/findings on the aforesaid issues, the claim of the petitioner is allowed and as such the respondents are directed to reinstate him with seniority and continuity from

the date of his illegal termination i.e w.e.f. February/March, 1998, but without back wages. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 3rd Jan., 2015.

(A. S. JASWAL),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Ref no. 32 of 2011.

Instituted on 21.7.2011

Decided on. 3.1.2015.

Tek Singh S/o Shri Lachhmi Dass R/O Village Panehra, P.O. Chaba, Tehsil Sunni, District Shimla, H.P.*Petitioner.*

VS.

The Executive Engineer, H.P.S.E.B. Electrical Division, Sunni, Tehsil Sunni, District Shimla, H.P.*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Vasu Sood, Advocate.

For respondent: Shri Ramakant Sharma, Advocate.

AWARD

The reference, for adjudication, is as under:

“Whether the verbal termination of services of Sh. Tek Singh S/o Sh. Lachhmi Dass daily wage Beldar by the Executive Engineer, H.P.S.E.B. Electrical Division, Sunni, Tehsil Sunni, District Shimla, H.P. w.e.f 21-03-1998 (Dispute referred keeping in view the order dated 09-01-2006 of Himachal Pradesh State Administrative Tribunal Shimla in O.A. 1808/1999 filed by the above named worker) without serving notice, without holding enquiry and without complying with the provisions of the Industrial Disputes Act, 1947, whereas persons junior to him have been retained by the employer, as alleged by the workman, is legal and justified? If not, to what wages, service benefits and relief the above named workman is entitled to?”

2. In nutshell, the case of the petitioner is that initially he was appointed as daily waged beldar with the respondent (employer) on 1.1.1995 and thereafter he kept on working, to the satisfaction of his superiors, till his oral illegal termination i.e w.e.f. 31.5.1998. On having felt aggrieved by his such illegal termination, he had approached the administrative Tribunal by filing Original application which came to be registered as OA No. 18-8/1999. However, that application stood disposed of/ rejected by the Tribunal, for want of jurisdiction, vide order dated 9.1.2006. Thereafter, the petitioner filed a demand notice which resulted in making a reference to this Court. It is also averred that his juniors namely S/Shri Madan Lal, Gian Chand, Om Prakash etc. whose names find mention in para no. 6 of the petition, were retained by the respondent. In this way, the respondent violated the principles of last come first go. By alleging his termination to be against the provisions of the Act, the petitioner has sought his reinstatement along-with all the consequential service benefits.

3. The claim of the petitioner has been contested on having raised various preliminary objections including maintainability, that the petitioner has concealed material facts from this Court and that he has got no legal enforceable cause against the respondent. On merits, it has been asserted that the petitioner had been engaged as casual worker, on muster roll, for specific work from 25.11.1995 to 20.3.1998. During that period, he had worked for 64 days, in total. It has been specifically denied that his services had been terminated. In fact, the same automatically came to an end after the specific work was over. No persons junior to the petitioner have been engaged by the respondent except those who were ordered and directed by the Hon'ble Courts. In no calendar year, the petitioner had completed 240 days.

4. Pleadings of the parties gave rise to the following issues which were struck on 27.12.2011.

1. Whether the termination of service of petitioner by the respondent with effect from 21.3.1998 is in violation of the provisions of Industrial Disputes Act, 1947? . . .*OPP*.
2. If issue no. 1 is proved in affirmative, to what relief the petitioner is entitled to?. . .*OPR*.
3. Whether the petitioner has no cause of action? . . .*OPR*.
4. Relief.

5 I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 Accordingly in yes.

Issue no.2 Entitled to reinstatement with seniority and continuity but without back wages.

Issue no.3 No.

Issue no.4 No.

Relief. Reference answered in favour of the petitioner and against the respondent, per operative part of award.

Reasons for findings**Issue no. 1**

7. It has been alleged by the petitioner that in each calendar year, he had completed 240 days before his alleged termination w.e.f. 31.5.1998. The contention of the petitioner is also to this effect that the respondents have engaged persons junior to him as per their names mentioned in para no.6 of the petition. On the other hand, the defence version is that the petitioner had been engaged as casual worker for specific work and that he had worked only for 64 days, in total. His services had automatically come to an end on the completion of the work. Thus, as per the respondent his services had not been disengaged/terminated.

8. In his affidavit Ex. PW-1/A, the petitioner has supported the facts as stated in the petition on all material counts including that in each calendar year he had completed 240 days and that his juniors have been retained by the respondent. He has also filed copy of information, which is Ex. PW-1/B, (objected to), got obtained by filing an application under Right to Information Act. In the cross-examination, he admitted that on 1.1.1995, he had been engaged for specific works and on the completion of the same, his services were being disengaged. He denied to have worked for only short period. Regarding his work, he has not produced any record from the years, 1995 to 1997. In the circle of Ex. PX, he has signed and that in this document his name figures at serial no.

12. As per this document, he has worked for 19 days w.e.f. 26.2.1998 to 21.3.1998. He admitted that whenever he used to do work, his attendance was being marked and as per muster roll, he used to be paid the wages. He admitted that in the years 1996 & 1997, he did not do any work. As per page no. 14 of Ex. PW-1/B, he had worked for 137 days and in the year, 1998 for 19 days. He further admitted that on the completion of the work, his services used to stand terminated. He expressed his ignorance that the persons who are in service, had been engaged by the department on the orders of the Court.

9. Shri Jagat Ram (RW-1), on the basis of authority letter Ex. RW-1/A, has stated that the petitioner had worked with them from October, 1995 to 1998, as daily wager, on muster roll basis for specific work. In no calendar year, he had completed 240 days. The department has not engaged any person junior to the petitioner. Only, on the orders of the Courts, persons had to be engaged. In the cross-examination, he admitted that since the work is available with the department, for this reason, persons junior to the petitioner had to be engaged.

10. From the evidence, which has been referred to above, it is abundantly clear that the petitioner has failed to prove that he had worked for 240 days in a calendar year preceding his alleged termination. It has been specifically stated by Shri Jagat Ram (RW-1), that in no calendar year, the petitioner had completed 240 days. In my considered view, the petitioner has failed to prove that he has completed 240 days in a calendar year preceding his termination. To claim benefit under section 25-F of the Act, it was upon the petitioner to have established that prior to his termination, he had completed 240 days. It has been held in **2009 (120) FLR 1007 an Civil Appeal no. 4468 of 2005 of Hon'ble Supreme Court incase titled as Relip Nagarpalika Vs. Babuji Gabhaji Thakore and others** that:

“The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer.”

Since, the petitioner has failed to prove that he had worked continuously for 240 days in the preceding one year from the date of his termination, his alleged termination cannot be said to be in contravention of the provisions of section 25-F of the Act.

11. Here, it is further to be noted that the petitioner has also challenged his termination to be illegal and unjustified on the ground that his juniors have been kept in service. In his affidavit, Ex. PW-1/A, the petitioner has named those persons, who are junior to him. By taking recourse to the provisions of Right to Information Act, he has also got obtained information which is Ex. PW 1/B, regarding the engagement of daily wagers. In his affidavit, Ex. PW-1/A, he has stated that Bhupesh Kumar was appointed on 13.1.1997 and Sita Ram on 2.5.1997. In this way, he has mentioned the names of 64 workers to whom he alleges to be junior to him. It has also been stated by Shri Jagat Ram (RW-1), that one worker namely Trilok Singh has been engaged by the department on the orders of Court and that he (Trilok Singh) is junior to the petitioner. He also admitted that since, the work is available with the department, for this reason, junior had to be engaged. From the evidence, as referred to above, it is duly proved, on record, that after the alleged termination of the petitioner, the department had engaged fresh workers, who are juniors to the petitioner without calling the petitioner to join the work. In this way, his termination w.e.f. 21.3.1998, can be said to be in violation of the provisions of section 25-G and 25-H of the Act. It has been held by our own Hon'ble High Court, incase titled as ***State of HP & Others V/s Bhatag Ram & Anr. as reported in latest HLJ 2007 (HP) 903.*** that :—

“Continuing of 240 days is not necessary in 12 calendar months. It is not necessary to workman to complete 240 days during 12 months for taking the benefits of section 25-G & 25-H of the Act.”

12. For my above discussion and law laid down by the Hon'ble High Court (supra), I have no hesitation in holding that the services of the petitioner had been terminated/disengaged, illegally and in an unjustified manner and that too without complying with the provisions of the Act. Accordingly, my answer to this issue is in “Yes”.

Issue no. 2

13. The petitioner has claimed his reinstatement with all the consequential service benefits. On the other hand, Ld. Counsel for the respondent has urged with vehemence that having regard to the short period for which the petitioner had remained engaged, he should be awarded compensation and not reinstatement. In support of his such contention, he has relied upon **(2013) 5 SCC 136, Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh.**

14. It is true that when regard is given to the material, on record, it is quite evident that the petitioner, who had been engaged in the year, 1995, had worked till the year, 1998. The contention of the petitioner is that he had been engaged on 1.1.1995. As per the reference, which has been made to this Court, the services of the petitioner were allegedly terminated w.e.f. 21.3.1998. In his petition, the petitioner has stated that his services were terminated in illegal manner w.e.f. 31.5.1998. Since, this Court is required to answer the reference which has been made by the appropriate government, the alleged termination of the petitioner has to be considered w.e.f. 21.3.1998. Moreover, the respondent, in its reply, has alleged that the petitioner had worked till 21.3.1998. The evidence, on record, further goes to show that when the services of the petitioner had been terminated, allegedly in illegal manner, he had moved the Administrative Tribunal, which rejected his OA, vide order dated 9.1.2006. On the record, it is not clear that as to when the petitioner had raised the demand notice against his alleged illegal termination. However, from the reference, which has been made to this Court, by the appropriate government, it is revealed that it was made on 12.6.2011. If the petitioner had allegedly raised the demand notice after the passing of the order dated 9.1.2006, it would not have taken for the appropriate government to sit over the matter for such a long period before making the reference on 12.6.2011. It clearly shows that after much delay, the petitioner must have raised the demand notice after the passing of the order dated

9.1.2006 by the Administrative Tribunal. Having regard to this fact that the petitioner has challenged his alleged termination by filing OA in the Administrative Tribunal, I am of the view that he deserves to be reinstated in service than to award him compensation as submitted by the learned counsel for respondent. However, this fact can be considered by this Court that having regard to the delay in raising the demand notice, the reinstatement of the petitioner can be ordered from the date when he had raised the demand notice. In my view it would be in the interest of justice if he is ordered to be reinstated when he had raised the demand notice. Accordingly, I order so. As far as grant of back wages to the petitioner are concerned, I may mention that *the Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla* has ruled that **“full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry”**.

15. Consequently, for what has been stated and observed above, the petitioner is held entitled to be reinstated in service with seniority and continuity but without back wages from the date when he raised demand notice. Thus, my answer to this issue is in “Yes”.

Issue no. 3

16. When, the reference came to be made to this Court, the petitioner filed the statement of claim. Thus, it cannot be said that he has no cause of action to file the petition. It further needs to be mentioned that the reference, which has made to this Court, is required to be answered. Thus, I hold that the petitioner has cause of action and my answer to this issue is in “no”.

Relief

As a sequel to my discussion/findings on the aforesaid issues, the claim of the petitioner is partly allowed and as such the respondents are directed to reinstate him **with seniority and continuity but without back wages from the date when he raised demand notice**. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 3rd Jan., 2015.

(A. S. JASWAL)
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Ref no. 97 of 2010.

Instituted on 11.8.2010

Decided on. 6.1.2015.

Jeet Singh S/o Shri Ram Singh R/o Village Daksana, P.O Karog, Tehsil Sangrah, District
Sirmour, HP. . .Petitioner.

VS.

1. The Director Agriculture Department, Shimla-5.
2. The Deputy Director, Agriculture Nahan, District Sirmour, HP. Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri J.R Sharma, Advocate.

For respondent: Shri Surender Negi, Dy. DA.

AWARD

The reference, for adjudication, is as under:

“Whether the termination of services of Sh. Jeet Singh S/o Shri Ram Singh by i) The Director Agriculture Department, Shimla-5, ii) The Deputy Director, Agriculture Nahan, District Sirmour, HP w.e.f. 1.12.2006, after serving him notice dated 1.12.2006 (copy enclosed) along- with draft in lieu of one month notice and retrenchment compensation, is legal and justified? If not, what relief of back wages, seniority and service benefits the above aggrieved workman is entitled to?”

2. In nutshell, the case of the petitioner is that he was appointed as daily waged beldar on 17.4.1995 and continued to remain, as such, till 1.12.2006, on which date, his services were terminated without assigning any reason and also against the settled position of law. Preceding to his termination, he had completed 240 days in twelve calendar months. Although, he had requested the respondents to reengage him, several times, but of no avail. It is further averred that the respondents also retained persons junior to him as per their names mentioned in para no.5 of the petition. Against this back-drop, a prayer has been made for his reengagement along-with all the consequential benefits.

3. The petition has been contested by denying that the petitioner had continued to remain, in work, with the respondents till 1.12.2006. In fact, he had worked till 30.11.2006. Only, on 1.12.2006, his wages could be drawn. Since, there was nonavailability of work, the services of the petitioner were retrenched w.e.f. 30.11.2006 (afternoon) by complying with the requirements of section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred as Act) as he was duly served with notice on 1.12.2006 along-with Bank Draft No. 306804 dated 1.12.2006 amounting to Rs, 11,620/- i.e one month's wages in lieu of notice and wages for the period w.e.f. 1.11.2006 to 30.11.2006. It has been denied that the persons, as have been alleged by the petitioner, are junior to him. As a matter of fact, they have been engaged on compassionate ground as per the policy of the Government. In this way, there had been no violation of the settled principles of law. Other allegations denied.

4. Pleadings of the parties gave rise to the following issues which were struck on 20.9.2011.

6. Whether the termination of service of petitioner by the respondent is in violation of the provisions of Industrial Disputes Act, 1947? . . .*OPP*.
7. Relief.

5 I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under. Issue no.1 Accordingly in yes. Relief. Reference answered in favour of the petitioner and against the respondent, per operative part of award.

Reasons for findings.

Issue no. 1.

7. Admittedly, the petitioner had been retrenched, from service, w.e.f. 1.12.2006. Whereas, the contention of the respondent is that on having duly complied with the requirements of section 25-F of the Act, the services of the petitioner were retrenched due to non-availability of work, the claim of the petitioner is that his services had been terminated in violation of the provisions of the Act.

8. Section 25-F of the Act, reads as under:

25-F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until--

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:**
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2*[for every completed year of continuous service] or any part thereof in excess of six months; and**
- (c) notice in the prescribed manner is served on the appropriate Government 3*[or such authority as may be specified by the appropriate Government by notification in the Official Gazette].**

9. In the reply, it has been stated by the respondent that notice under section 25-F was duly served upon the petitioner, on 1.12.2006, along-with Bank Draft No. 306804 dated 1.12.2006 amounting to Rs. 11,620/- i.e one month's wages in lieu of notice and wages for the period w.e.f. 1.11.2006 to 30.11.2006. As per this notice, the petitioner had been paid one month's wages in lieu of notice amounting to Rs. 2170/- and compensation for six years, calculated to the tune of Rs. 7350/-. He was also paid wages for the period w.e.f. 1.11.2006 to 30.11.2006, amounting to Rs. 2100/-. In this way, as per notice dated 1.12.2006, issued in terms of section 25-F of the Act, the petitioner had been sent Rs. 11,620.00 through the aforesaid Bank Draft.

10. Now, the question arises as to whether the notice had been sent to the petitioner as per the requirements of law or not. As per the respondents, the petitioner had worked till 30.11.2006 and the notice under section 25-F had been issued to him on 1.12.2006. This clearly goes to show that on the date i.e 1.12.2006, when the services of the petitioner stood retrenched, he had not been paid his dues as were required to be paid in terms of the aforesaid section.

11. Shri Daulat Ram (RW-1), has appeared in the witness box to state that for want of availability of work, the services of the petitioner had been retrenched in terms of retrenchment notice Ex. R-1 dated 1.12.2006. As per this notice, the petitioner had been paid wages in lieu of the notice and also retrenchment compensation, vide receipt, Ex. R-2. In the cross-examination, he admitted that Ex. R-1 had been issued to the petitioner on 1.12.2006 and that Ex. R-2 (receipt) had

been taken from the petitioner, on 2.12.2006. From the statement of this witness, it is abundantly clear that the retrenchment compensation as well as pay in lieu of notice had not been paid to the petitioner on 1.12.2006, when his services were retrenched. I may mention that section 25-F, which is mandatory in nature, should have been complied with before the retrenchment of the petitioner. It has been held by the **Hon'ble high Court of Punjab & Haryana in Roop Narain Shukla Vs. Learned Presiding Officer, Industrial Tribunal, Haryana and others, 1997 (7) SLR 524** that: **“mere intimation to the workman that he should collect his dues from the office on any working day is not enough compliance of the provisions of section 25-F of the Act”**.

12. In the instant case, the petitioner was required to be paid the retrenchment compensation as well as pay in lieu of notice, on 1.12.2006, when his services were retrenched in compliance with the mandatory provisions of section 25-F of the Act and not on 2.12.2006 as paid vide receipt Ex. R-2. Since, the respondents have failed to comply with the requirements of section 25-F of the Act, which is mandatory one, I have no hesitation in holding that the retrenchment of the petitioner w.e.f. 1.12.2006 cannot be said to be legal and justified.

13. Consequently, for what has been stated and observed above, notice dated 1.12.2006 is quashed and set aside.

14. Now, the question arises as to what service benefits the petitioner is entitled to. Although, the petitioner has claimed all the consequential benefits including back wages but I am of the view that he (petitioner) can be ordered to be reinstated in service along-with seniority and continuity but without back wages. It has been held by the **Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla** has ruled that **“full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry”**.

15. Resultantly, on the basis of case law (supra), I without hesitation hold that the petitioner is entitled for reinstatement with seniority and continuity but without back wages. Thus, my answer to this issue is in “Yes” accordingly.

Relief.

As a sequel to my discussion/findings on the aforesaid issues, the claim of the petitioner is allowed and as such the respondents are directed to reinstate him **with seniority and continuity but without back wages from the date of his illegal retrenchment i.e 1.12.2006**. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 6th Jan., 2015.

(A.S JASWAL)
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

HIGHER EDUCATION DEPARTMENT**NOTIFICATION***Shimla-2, the 17th January, 2015*

No. EDN-A-Kha(1)-1/2015.—The Governor, Himachal Pradesh is pleased to order opening of new Government Degree College at Takipur, District – Kangra from the next academic session, in public interest.

By order,
Sd/-
Addl. Chief Secretary.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171001**NOTIFICATION***Shimla, the 12th January, 2015*

No. HHC/Admn. 6 (23)/74-XV.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare Additional District and Sessions Judge (II), Shimla, H.P. as Drawing and Disbursing Officer in respect of the Courts of District and Sessions Judge, Shimla, Additional District and Sessions Judge (I), Shimla and Additional District & Sessions Judge, CBI Court, Shimla and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of establishments attached to the aforesaid Courts under Major Head "2014-Administration of Justice" w.e.f. 25.1.2015 to 31.1.2015 during the Special casual leave period of Sh. Virender Singh, District and Sessions Judge, Shimla, Sh. Bahadur Singh, Additional District and Sessions Judge (I), Shimla and Sh. Padam Singh, Additional District & Sessions Judge, CBI Court, Shimla.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001**NOTIFICATION***Shimla, the 12th January, 2015*

No. HHC/E. 5-10/73-VII.—In exercise of the powers vested in it under Section 18 of the H.P. Courts Act, 1976 read with Rule 3 of the Appointment and Control Rules of Superintendents to the District and Sessions Judges in Himachal Pradesh, the Hon'ble High Court has been pleased to promote and appoint Sh. Nirmal Sharma, Superintendent Grade-II, Office of the Additional District and Sessions Judge, Solan as Superintendent Grade-I to the District and Sessions Judges in

the Pay Band of Rs.15600-39100 with Grade-Pay of Rs. 5400/- and post him as such in the office of District & Sessions Judge, Mandi, against a vacant post, with immediate effect. He shall remain on probation for a period of two years.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171 001

NOTIFICATION

Shimla, the 14th January, 2015

No. HHC/Admn. 6(24)74-IX.—The Hon'ble High Court of Himachal Pradesh, in exercise of the powers vested in it under Sub Section (2) and (3) of Section 11 of the Code of Criminal Procedure, 1973(Act No. 2 of 1974) and all other powers enabling it in this behalf, has been pleased to confer the powers of Judicial Magistrates First Class upon the following Judicial Magistrates Second Class, to be exercised by them within the local limits of the Districts where they are posted, with immediate effect:

Sl. No.	Name of the Judicial Officer	Designation and place of posting
1.	Ms. Anshu Chaudhary	Civil Judge (Jr. Division)-cum-Judicial Magistrate (VIII), Shimla.
2.	Sh. Nishant Verma	Civil Judge (Jr. Division)-cum-Judicial Magistrate, Ani.
3.	Ms. Pratibha Negi	Civil Judge (Jr. Division)-cum-Judicial Magistrate (III), Ghumarwin.
4.	Ms. Anita Sharma	Civil Judge (Jr. Division)-cum-Judicial Magistrate (III), Mandi.
5.	Sh. Baljit Chaudhary	Civil Judge (Jr. Division)-cum-Judicial Magistrate(II), Amb.
6.	Sh. Vivek Kaisth	Civil Judge (Jr. Division)-cum-Judicial Magistrate(III), Amb.
7.	Ms. Akanksha Dogra	Civil Judge (Jr. Division)-cum-Judicial Magistrate(IV), Mandi.
8.	Sh. Jitender Kumar	Civil Judge (Jr. Division)-cum-Judicial Magistrate(II), Sarkaghat.
9.	Ms. Abha Chauhan	Civil Judge (Jr. Division)-cum-Judicial Magistrate(II), Solan.
10.	Sh. Ajay Kumar	Civil Judge (Jr. Division)-cum-Judicial Magistrate(IV), Hamirpur.

By order,
Sd/-
Registrar General.

ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील धर्मशाला,
जिला कांगड़ा (हि0 प्र0)

श्री अनिल कुमार

बनाम

आम जनता

विषय.—प्रार्थना—पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

नोटिस बनाम आम जनता।

श्री अनिल कुमार पुत्र श्री रसाल चन्द, निवासी डेयरी फार्म योल, तहसील धर्मशाला, जिला कांगड़ा ने इस अदालत में शपथ—पत्र सहित मुकद्दमा दायर किया है कि उसकी पुत्र मुकल कश्यप का जन्म दिनांक 15-2-1992 को हुआ है परन्तु ग्राम पंचायत तमरोटी खास में जन्म तिथि पंजीकृत न है। अतः इसे पंजीकृत किये जाने के आदेश दिये जायें। इस नोटिस के द्वारा समस्त जनता को तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उपरोक्त बच्चे मुकल कश्यप की जन्म तिथि पंजीकृत किये जाने बारे कोई एतराज हो तो वह अपना एतराज हमारी अदालत में दिनांक 23-1-2015 को असालतन या वकालतन हाजिर होकर उजर पेश कर सकता है अन्यथा मुताबिक शपथ—पत्र जन्म तिथि पंजीकृत किये जाने बारे आदेश पारित कर दिये जायेंगे।

आज दिनांक 5-1-2015 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित /—
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
धर्मशाला, जिला कांगड़ा (हि0 प्र0)।

**In the Court of Shri Jagdish Chand, Executive Magistrate, Dharamshala,
Tehsil Dharamshala, District Kangra (H.P.).**

1. Shri Ram Singh Pathania s/o Shri B.S. Pathania, r/o House No. 10, Tirah Line, P.O. & Tehsil Dharamshala.
2. Smt. Asha d/o Shri Vir Singh, r/o Village Kajlot, at present w/o Shri Ram Singh Pathania s/o Shri B.S. Pathania, r/o House No. 10, Tirah Line, P.O. & Tehsil Dharamshala (H.P.).

Versus

1. The General Public
2. Secretary G.P. Barol
3. Secretary G.P. Sarah.

Whereas the above named applicant have made an application under Section 8(4) of the H.P. Registration of Marriage Act, 1996 alongwith an affidavit stating therein that they have solemnized their marriage on 22-2-2009 at Kajlot but has not been found entered in the records of the Registrar of marriage i.e. Secretary Gram Panchayat, Kajlot-II, Tehsil Dharamshala.

And whereas, they have also stated that they were not aware of the laws of the registration of marriage with the Registrar of marriage and now, therefore necessary orders for the registration of their marriage be passed so that their marriage is registered by the concerned authority.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding the registration of the marriage of the above named applicants, then they should appear before the court of undersigned on 29-1-2015 at Tehsil office Dharamshala, at 2.00 P.M. either personally or through their authorized agent.

In the event of their failure to do so orders shall be passed *ex parte* against the respondents for the registration of marriage without affording any further opportunity of being heard.

Issued under my hand and seal of the court on this 26th day of December, 2014.

Seal.

JAGDISH CHAND,
Executive Magistrate,
Dharamshala, District Kangra (H.P.).

**In the Court of Shri Jagdish Chand, Executive Magistrate, Dharamshala,
Tehsil Dharamshala, District Kangra (H.P.).**

1. Shri Sunil Gurang s/o Shri Prem Kumar Gurang, r/o VPO Tota Rani, Tehsil Dharamshala.
2. Smt. Manisha Kumari d/o Shri Padam Bahadur Thapa, at present w/o Shri Sunil Gurang s/o Shri Prem Kumar Gurang, r/o VPO Tota Rani, Tehsil Dharamshala.

Versus

1. The General Public
2. Secretary G.P. Barol
3. Secretary G.P. Sarah.

Whereas the above named applicant have made an application under Section 8(4) of the H.P. Registration of Marriage Act, 1996 alongwith an affidavit stating therein that they have solemnized their marriage on 8-10-2009 at Totarani but has not been found entered in the records of the Registrar of marriage *i.e.* Secretary Gram Panchayat, Bhattala, Tehsil Dharamshala;

And whereas, they have also stated that they were not aware of the laws of the registration of marriage with the Registrar of marriage and now, therefore, necessary orders for the registration of their marriage be passed so that their marriage is registered by the concerned authority.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding the registration of the marriage of the above named applicants, then they should appear before the court of undersigned on 29-1-2015 at Tehsil office Dharamshala, at 2.00 P.M. either personally or through their authorized agent.

In the event of their failure to do so orders shall be passed *ex parte* against the respondents for the registration of marriage without affording any further opportunity of being heard.

Issued under my hand and seal of the court on this 26th day of December, 2014.

Seal.

JAGDISH CHAND,
Executive Magistrate,
Dharamshala, District Kangra (H.P.).

ब अदालत श्री जगत राम, नायब तहसीलदार एवम् सहायक समाहर्ता द्वितीय श्रेणी, इन्दौरा,
जिला कांगड़ा (हि0 प्र0)

मिसल नं0 :.....

तारीख पेशी : 27-1-2015

श्री जुगल किशोर पुत्र माया दास, निवासी कुलाडा, तहसील इन्दौरा, जिला कांगड़ा (हि0प्र0) प्रार्थी।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र बावत भूमि खाता नं0 215, खतौनी नं0 311, खसरा नं0 1355, कित्ता 1, रकबा तादादी 0—39—38 हैव0 जमाबन्दी साल 2010—11 महाल कुलाडा के राजस्व अभिलेख में नाम दुरुस्त करवाने बारे।

इश्तहार मुनादी।

प्रार्थी श्री जुगल किशोर पुत्र माया दास, निवासी कुलाडा ने प्रार्थना—पत्र प्रस्तुत किया है कि मेरा नाम किशोरी लाल है जबकि उसका नाम पंचायत अभिलेख व उसके शिक्षा प्रमाण पत्रों तथा अन्य दस्तावेजों में जुगल किशोर पुत्र माया दास है लेकिन उक्त विषय से वर्णित भूमि के राजस्व अभिलेख के खाना मलकीयत में उसका नाम किशोरी लाल पुत्र माया दास गलत दर्ज कर दिया है जिसकी दुरुस्ती करके उसका नाम किशोरी लाल उर्फ जुगल किशोर दर्ज किया जाना है।

अतः इस इश्तहार राजपत्र के द्वारा सर्वसाधारण को सूचित किया जाता है कि उक्त नाम की दुरुस्ती करने बारे किसी भी व्यक्ति को कोई एतराज हो तो वह असालतन या वकालनत दिनांक 27-1-2015 को प्रातः 10.00 बजे अदालत हजा में उपस्थित होकर अपना एतराज पेश कर सकता है कोई एतराज न होने की सूरत में नाम दुरुस्ती के आदेश पारित कर दिये जाएंगे।

आज दिनांक 26-12-2014 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी किया गया।

मोहर।

जगत राम,
सहायक समाहर्ता द्वितीय श्रेणी,
इन्दौरा, जिला कांगड़ा (हि0 प्र0)।

ब अदालत नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, उप—तहसील धीरा,
जिला कांगड़ा (हि0 प्र0)

केस नं0 : 11/2014

तारीख दायर : 10-12-2014

तारीख पेशी : 30-1-2015

शीर्षक : श्री शक्ति चंद वालिया पुत्र श्री घुन्गर राम वालिया, निवासी गांव द्रमण, डाकघर पुडवा, उप—तहसील धीरा, जिला कांगड़ा (हि0 प्र0) प्रार्थी।

बनाम

प्रधान, ग्राम पंचायत पुडवा, उप—तहसील धीरा, जिला कांगड़ा

प्रत्यार्थी।

विषय.—प्रार्थना—पत्र अधीन धारा 13(3) जन्म/मृत्यु पंजीकरण अधिनियम, 1969.

उपरोक्त प्रार्थी ने इस न्यायालय में प्रार्थना-पत्र मय शपथ-पत्र पेश किया है कि उसकी लड़की रूची वालिया का जन्म गांव द्रमण, डाकघर पुडवा, उप-तहसील धीरा, जिला कांगड़ा (हि0 प्र0) में दिनांक 25-8-1990 को हुआ है मगर अज्ञानतावश ग्राम पंचायत पुडवा के अभिलेख में दर्ज न है।

अतः इस इशतहार/मुस्त्री मुनादी द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी को इस बारे कोई उजर या एतराज हो तो वह दिनांक 30-1-2015 को प्रातः 10.00 बजे असालतन या वकालतन अदालत में हाजिर आकर उजर पेश कर सकता है। इसके बाद कोई भी उजर या एतराज नहीं सुना जायेगा तथा रूची वालिया के जन्म पंजीकरण के आदेश सम्बन्धित ग्राम पंचायत पुडवा को पारित कर दिये जायेंगे।

मोहर।

हस्ताक्षरित/—

नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
उप-तहसील धीरा, जिला कांगड़ा (हि0 प्र0)।

ब अदालत नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, उप-तहसील धीरा,
जिला कांगड़ा (हि0 प्र0)

केस नं0 : 12/2014

तारीख दायर : 10-12-2014

तारीख पेशी : 30-1-2015

शीर्षक : श्री शक्ति चंद वालिया पुत्र श्री घुनगर राम वालिया, निवासी गांव द्रमण, डाकघर पुडवा, उप-तहसील धीरा, जिला कांगड़ा (हि0 प्र0) प्रार्थी।

बनाम

प्रधान, ग्राम पंचायत पुडवा, उप-तहसील धीरा, जिला कांगड़ा

प्रत्यार्थी।

विषय.—प्रार्थना-पत्र अधीन धारा 13(3) जन्म/मृत्यु पंजीकरण अधिनियम 1969.

प्रार्थी उपरोक्त ने इस न्यायालय में प्रार्थना-पत्र मय शपथ-पत्र पेश किया है कि उसके लड़के गौरव वालिया का जन्म गांव द्रमण, डाकघर पुडवा, उप-तहसील धीरा, जिला कांगड़ा (हि0 प्र0) में दिनांक 29-12-1993 को हुआ है मगर अज्ञानतावश ग्राम पंचायत पुडवा के अभिलेख में दर्ज न है।

अतः इस इशतहार/मुस्त्री मुनादी द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी को इस बारे कोई उजर या एतराज हो तो वह दिनांक 30-1-2015 को प्रातः 10.00 बजे असालतन या वकालतन अदालत में हाजिर आकर उजर पेश कर सकता है। इसके बाद कोई भी उजर या एतराज नहीं सुना जायेगा तथा गौरव वालिया के जन्म पंजीकरण के आदेश सम्बन्धित ग्राम पंचायत पुडवा को पारित कर दिये जायेंगे।

मोहर।

हस्ताक्षरित/—

नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
उप-तहसील धीरा, जिला कांगड़ा (हि0 प्र0)।

ब अदालत श्री काली दास, नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी, उप-तहसील धीरा,
जिला कांगड़ा (हि0 प्र0)

केस नं0 : 21/2014

तारीख पेशी : 30-1-2015

शीर्षक : मंजू शर्मा पत्नी श्री नरेश कुमार, निवासी महाल मरुंह, मौजा मरुंह, उप-तहसील धीरा, जिला कांगड़ा (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

विषय.—दरखास्त बराये नाम दरुस्ती करने बारे।

मंजू शर्मा पत्नी श्री नरेश कुमार, निवासी महाल मरुंह, मौजा मरुंह, उप—तहसील धीरा, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में प्रार्थना—पत्र मय शपथ—पत्र इस आशय से पेश किया है कि उसकी लड़की का नाम नैया शर्मा है। जबकि महाल मरुंह, मौजा मरुंह के राजस्व अभिलेख में नेहा दर्शाया गया है। अतः उसका नाम राजस्व अभिलेख में दरुस्त किया जाये।

अतः इस इशतहार व मुस्त्री मुनादी द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी को उक्त नाम की दरुस्ती बारे कोई उजर या एतराज हो तो वह दिनांक 30—1—2015 को प्रातः 10.00 बजे असातन या वकालतन हाजिर अदालत आकर अपना उजर पेश कर सकता है। इसके उपरान्त कोई भी उजर या एतराज समायत नहीं होगा तथा नियमानुसार उक्त लड़की के नाम की दरुस्ती के आदेश पारित कर दिये जायेंगे।

आज हमारे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

काली दास,
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी,
उप—तहसील धीरा, जिला कांगड़ा (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, बैजनाथ, जिला कांगड़ा (हि0 प्र0)

श्री दलजीत चन्द राणा पुत्र श्री प्रताप सिंह राणा, निवासी वही, डा0 वही, तहसील बैजनाथ, जिला कांगड़ा (हि0 प्र0)।

बनाम

आम जनता

प्रार्थना—पत्र जेर धारा 13(3) जन्म एवम् मृत्यु पंजीकरण अधिनियम, 1969.

श्री दलजीत चन्द राणा पुत्र श्री प्रताप सिंह राणा, निवासी वही, डा0 वही, तहसील बैजनाथ, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में प्रार्थना—पत्र गुजारा है कि उसके पुत्र दीपक राणा का जन्म दिनांक 1—7—1983 को महाल वही में हुआ था परन्तु इस बारे पंचायत के रिकॉर्ड में पंजीकरण नहीं करवाया जा सका। अब पंजीकरण करने के आदेश दिये जायें।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण के बारे में कोई उजर/एतराज हो तो वह दिनांक 29—1—2015 को सुबह 10.00 बजे इस न्यायालय में असातन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा उपरोक्त जन्म का पंजीकरण करने के आदेश दे दिये जायेंगे। उसके उपरान्त कोई एतराज न सुना जायेगा।

आज दिनांक 30—12—2014 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा (हि0 प्र0)।

ब अदालत श्री लेख राम धीमान, कार्यकारी दण्डाधिकारी, बैजनाथ, जिला कांगड़ा (हि0 प्र0)

Ardo Tsering s/o Abbom, r/o Bir, तहसील बैजनाथ, जिला कांगड़ा (हि0 प्र0)।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवम् मृत्यु पंजीकरण अधिनियम, 1969.

Ardo Tsering s/o Abbom, r/o Bir, डा0 बीड़, तहसील बैजनाथ, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसकी Nephew Kunchok Gyaltzen का जन्म दिनांक 6-12-1969 को महाल Bir में हुआ था परन्तु इस बारे पंचायत के रिकॉर्ड में पंजीकरण नहीं करवाया जा सका। अब पंजीकरण करने के आदेश दिये जायें।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण के बारे में कोई उजर/एतराज हो तो वह दिनांक 29-1-2015 को सुबह 10.00 बजे इस न्यायालय में असातन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा उपरोक्त जन्म का पंजीकरण करने के आदेश दे दिये जायेंगे। उसके उपरान्त कोई एतराज न सुना जायेगा।

आज दिनांक 30-12-2014 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

लेख राम धीमान,
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा (हि0 प्र0)।

ब अदालत श्री लेख राम धीमान, कार्यकारी दण्डाधिकारी, बैजनाथ, जिला कांगड़ा (हि0 प्र0)

Yama Wangchuk s/o Abheney, r/o Tib. Coloney Bir, तहसील बैजनाथ, जिला कांगड़ा (हि0 प्र0)।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवम् मृत्यु पंजीकरण अधिनियम, 1969.

Yama Wangchuk s/o Abheney, निवासी Bir, डाकखाना Bir, तहसील बैजनाथ, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसकी Nephew Jemyang Choephel का जन्म दिनांक 18-9-1979 को महाल Bir में हुआ था परन्तु इस बारे पंचायत के रिकॉर्ड में पंजीकरण नहीं करवाया जा सका। अब पंजीकरण करने के आदेश दिये जायें।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण के बारे में कोई उजर/एतराज हो तो वह दिनांक 29-1-2015 को सुबह 10.00 बजे इस न्यायालय में असातन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा उपरोक्त जन्म का पंजीकरण करने के आदेश दे दिये जायेंगे। उसके उपरान्त कोई एतराज न सुना जायेगा।

आज दिनांक 30-12-2014 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

लेख राम धीमान,
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा (हि0 प्र0)।

ब अदालत श्री लेख राम धीमान, नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, बैजनाथ,
जिला कांगड़ा (हि0 प्र0)

Dason/buchun aged 74 years d/o Chheton, r/o Dege Division Bir, तहसील बैजनाथ, जिला
कांगड़ा (हि0 प्र0)।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवम् मृत्यु पंजीकरण अधिनियम, 1969.

Dason/buchun aged 74 years d/o Chheton, r/o Dege Division Bir, डाकखाना Bir, तहसील बैजनाथ, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसकी Nephew Chenrab Palden का जन्म दिनांक 8-3-1978 को महाल Bir में हुआ था परन्तु इस बारे पंचायत के रिकॉर्ड में पंजीकरण नहीं करवाया जा सका। अब पंजीकरण करने के आदेश दिये जायें।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण के बारे में कोई उजर/एतराज हो तो वह दिनांक 29-1-2015 को सुबह 10.00 बजे इस न्यायालय में असातन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा उपरोक्त जन्म का पंजीकरण करने के आदेश दे दिये जायेंगे। उसके उपरान्त कोई एतराज न सुना जायेगा।

आज दिनांक 30-12-2014 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

लेख राम धीमान,
नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा (हि0 प्र0)।